

**NUMBER**

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**DATE**

July 14, 2017

**OF INTEREST TO**

County Directors

Social Services Supervisors and  
Staff

Tribal Directors

Tribal Supervisors and Staff

Financial Assistance Supervisors  
and Staff**ACTION/DUE DATE**Please read information and  
prepare for implementation**EXPIRATION DATE**

July 14, 2019

## Transferring Northstar Kinship Assistance Benefits to Successor Relative Custodians

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**TOPIC**

Policy and procedure guidance for transferring Northstar Kinship Assistance benefits to successor relative custodians.

**PURPOSE**

To inform local social services agency staff about procedures for transferring existing Northstar Kinship Assistance benefits to successor relative custodians when relative custodians die or are incapacitated.

**CONTACT**

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**SIGNED**

JAMES G. KOPPEL  
Assistant Commissioner  
Children and Family Services Administration

**TERMINOLOGY NOTICE**

The terminology used to describe people we serve has changed over time. The Minnesota Department of Human Services (DHS) supports the use of "People First" language.

## I. Background

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The federal Preventing Sex Trafficking and Strengthening Families Act of 2014 gave states the ability to continue making kinship guardianship payments to a successor relative custodian (successor) upon the death or incapacity of a relative custodian. The relative custodian must have been receiving kinship guardianship benefits as a result of a transfer of permanent legal and physical custody (TPLPC) under Minnesota Statutes, section 260C.515, subdivision 4. In Minnesota, this went into effect August 1, 2015.

This bulletin provides guidance to local social services agency staff on the process of transferring Northstar Kinship Assistance benefits to successors.

## II. Legal Requirements

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A successor must be named in a Northstar Kinship Assistance benefit agreement to be eligible for continued payments upon the death or incapacity of a relative custodian. Relative custodians may name a successor at any time, but both relative custodian and successor must be alive and not incapacitated at the time of naming a successor.

Incapacity is not defined at the federal level. The Minnesota Department of Human Services (department) defines incapacity as being incapable of caring for a child on a day-to-day basis for an extended period of time, with no remedy to remove the incapacity. For example, a grandparent who must move to an assisted living facility is no longer capable of caring for a child on a day-to-day basis, and there is no remedy to remove the incapacity. Alternatively, chemical dependency, mental health, and homelessness are not considered an incapacity, as there are services and supports to help remedy these issues.

### A. Eligibility Criteria

When a relative custodian dies or is incapacitated, a successor must meet certain criteria to ensure Northstar Kinship Assistance and Title IV-E eligibility and benefits are not affected.

In addition to being named in a Northstar Kinship Assistance benefit agreement, a successor must also complete the following within one year of a relative custodian's death or incapacity:

- Meet background study requirements for all required household members
- Renegotiate the benefit agreement, including cooperating with completion of a Minnesota Assessment of Parenting for Children and Youth (MAPCY)
- File a request with the juvenile or tribal court to modify the TPLPC court order under Minnesota Statutes, section 260C.521, or the applicable provision in tribal code, in a modification proceeding to name the successor as the permanent legal and physical relative custodian.

If a successor has made reasonable attempts to satisfy these requirements within one year, but was unsuccessful in meeting the deadline, the commissioner of human services (commissioner) may certify that failure to meet the deadline was not the successor's fault.

Payments to a successor may be temporarily approved, up to one year, until all requirements listed above have been met. Ongoing payments begin the month when all requirements have been met.

[Minnesota Statutes, sections 256N.22, subdivisions 9 and 10; and 260C.521, subdivision 2]

## B. Exclusions

A successor may not be:

- Child's legal parent
- Child's biological parent
- Child's stepparent
- Adult living in the home of a legal parent, biological parent, or stepparent.

A successor does not need to be a relative to the child, as long as the successor is named in the benefit agreement.

[Minnesota Statutes, section 256N.22, subdivision 10 (a); Child Welfare Policy Manual, Section 8.5B.2, Question 3]

## II. Transferring Benefits to Successors

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When a relative custodian dies or becomes incapacitated, this must be reported to the department. If a successor has been named in a benefit agreement, department staff will work with the successor and the financially responsible agency to amend the existing benefit agreement to continue Northstar Kinship Assistance benefits. The following sections review agency procedures to fulfill requirements to continue Northstar Kinship Assistance benefits.

### A. Required Background Studies

A successor's county or tribe of residence is responsible for completing required background studies. Department staff will notify a successor's county or tribe of residence that a successor will be contacting them to complete background studies on all required household members. Even if a child was eligible for Title IV-E Northstar Kinship Assistance, payments cannot be Title IV-E until all required background studies are completed, and there are no barrier crimes.

[Minnesota Statutes, section 256N.22, subdivision 10 (b)(1); Child Welfare Policy Manual, Section 8.5B.2, Question 2]

### B. Renegotiation of a Benefit Agreement

To receive Northstar Kinship Assistance benefits, there must be a benefit agreement in place with a successor. The financially responsible agency is responsible for renegotiating a benefit agreement with a

successor by amending an existing agreement. As part of renegotiating a benefit agreement, a MAPCY may be completed to determine payment amount. Department staff will notify the financially responsible agency that a successor may be contacting them to request that a MAPCY be completed.

A successor must sign the amendment to the agreement, along with the financially responsible agency, prior to sending the amended benefit agreement to the department to be fully executed. When a benefit agreement has been fully executed, department staff will notify the local social services agency and successor.

A Kinship Placement Agreement and Eligibility Determination are not required when renegotiating a benefit agreement with a successor. A child's Title IV-E eligibility (or ineligibility) will carry forward to the amended and renegotiated benefit agreement with a successor, provided the successor has met all eligibility requirements.

[Minnesota Statutes, section 256N.22, subdivision 10 (b)(2); 42 U.S.C. 673 (d)(3)(C); Child Welfare Policy Manual, Section 8.5, Question 7]

## C. Modification of a TPLPC Court Order

Successors are responsible for filing a request with the juvenile or tribal court to modify an existing TPLPC court order. The court will review all required background studies and may modify the TPLPC court order if the court finds that such a modification is in a child's best interests. Successors must send a copy of the modified TPLPC court order to the department to finalize Northstar Kinship Assistance benefits. If the department does not receive a copy of this court order, benefits will terminate 12 months from the date of the relative custodian's death or incapacity.

Successors are eligible to receive reimbursement for nonrecurring expenses associated with finalizing a TPLPC. Reimbursement requests must be submitted to the department within 21 months of the date of TPLPC finalization.

[Minnesota Statutes, sections 256N.22, subdivision 10 (b)(3) and (c); and 260C.521, subdivision 2]

## III. Transferring Benefits to Court-appointed Guardians

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When there is no named successor, the court may appoint a guardian for a child whose relative custodian dies or becomes incapacitated. The commissioner must give written consent to a court-appointed guardian to continue Northstar Kinship Assistance benefits. The court-appointed guardian, and all required household members, must have completed background studies for the commissioner to give written consent.

In this instance, the commissioner may approve temporary Northstar benefits for up to six consecutive months following the death or incapacity of a relative custodian. If a court has not appointed a new relative custodian within six months of the death or incapacity of the relative custodian, Northstar Kinship Assistance must end, and it cannot be resumed.

Any payments made under these circumstances must be made through funds other than federal Title IV-E funds. If a child was eligible for Title IV-E Northstar Kinship Assistance in the original benefit agreement, a child will lose Title IV-E eligibility in an agreement established under these circumstances.

[Minnesota Statutes, sections 256N.22, subdivision 10 (d), (e), and (f); and 256N.28, subdivision 2]

## **IV. Notice to Other Parties to the Proceeding**

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A person filing for modification of a TPLPC court order is responsible for notifying other parties to the proceeding, including the responsible social services agency and all legal parents of a child, of their intent to modify the TPLPC order. A party to the proceeding may file an affidavit in support of, or in opposition to, the proposed change.

[Minnesota Statutes, sections 260C.515, subdivision 4 (4); 260C.521, subdivision 2; and 518.185]

### **Americans with Disabilities Act (ADA) Advisory**

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